

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

PHOENIX BEVERAGES, INC., et al.,

Plaintiffs,

-against-

EXXON MOBIL CORPORATION, et al.,

Defendants.

Case No. 1:12-CV-03771 (PKC) (JO)

**ANSWER TO  
THIRD-PARTY DEFENDANT UNITED  
SITE SERVICES, INC.'S  
COUNTERCLAIMS AGAINST  
DEFENDANT/THIRD-PARTY PLAINTIFF  
EXXON MOBIL CORPORATION**

EXXON MOBIL CORPORATION,

Third-Party Plaintiff,

-against-

ACE WASTE OIL, INC., et al.,

Third-Party Defendants.

Defendant/third-party plaintiff Exxon Mobil Corporation (“ExxonMobil”) by its attorneys as and for its answer to the counterclaim (“Counterclaim”) of third-party defendant United Site Services, Inc. i/s/h/a United Site Services Inc., f/k/a American Classic Sanitation, f/k/a Farnham Environmental & Farnham Sanitation Systems of CT (“USS” or “Third-Party Defendant”), states as follows:

1. The allegations contained in paragraph 1 of the Counterclaim state legal conclusions to which no responsive pleading is required. Furthermore, to the extent this paragraph refers to various statutes, such statutes speak for themselves.

2. The allegations contained in paragraph 2 of the Counterclaim state legal conclusions to which no responsive pleading is required. Furthermore, to the extent this paragraph refers to various statutes, such statutes speak for themselves.

3. The allegations contained in paragraph 3 of the Counterclaim refer to the Third-Party Complaint to which no responsive pleading is required. Furthermore, the Third-Party Complaint speaks for itself. Moreover, to the extent the allegations refer to various statutes, such statutes speak for themselves.

4. The allegations contained in paragraph 4 of the Counterclaim refer to the Third-Party Complaint to which no responsive pleading is required. Furthermore, the Third-Party Complaint speaks for itself. Moreover, to the extent the allegations refer to various statutes, such statutes speak for themselves.

5. The allegations contained in paragraph 5 of the Counterclaim state legal conclusions to which no responsive pleading is required. Furthermore, to the extent this paragraph refers to various statutes, such statutes speak for themselves. To the extent an answer is required, ExxonMobil denies the allegations contained in paragraph 5 of the Counterclaim.

6. ExxonMobil denies the allegations contained in paragraph 6 of the Counterclaim.

7. The allegations contained in paragraph 7 of the Counterclaim state legal conclusions to which no responsive pleading is required. Furthermore, to the extent this paragraph refers to various statutes, such statutes speak for themselves. To the extent an answer is required, ExxonMobil denies the allegations contained in paragraph 7 of the Counterclaim.

8. The allegations contained in paragraph 8 of the Counterclaim state legal conclusions to which no responsive pleading is required. Furthermore, to the extent this paragraph refers to various statutes, such statutes speak for themselves. To the extent an answer is required, ExxonMobil denies the allegations contained in paragraph 8 of the Counterclaim.

9. The allegations contained in paragraph 9 of the Counterclaim refer to the Third-Party Complaint to which no responsive pleading is required. Furthermore, to the extent this

paragraph refers to the Third-Party Complaint and various statutes, the Third-Party Complaint and such statutes speak for themselves.

10. The allegations contained in paragraph 10 of the Counterclaim state legal conclusions to which no responsive pleading is required. Furthermore, to the extent this paragraph refers to various statutes, such statutes speak for themselves.

11. The allegations contained in paragraph 11 of the Counterclaim state legal conclusions to which no responsive pleading is required. Furthermore, to the extent this paragraph refers to various statutes, such statutes speak for themselves. To the extent an answer is required, ExxonMobil denies the allegations contained in paragraph 11 of the Counterclaim.

#### **AFFIRMATIVE DEFENSES**

ExxonMobil adopts and incorporates by reference the affirmative defenses pleaded in its Answer to the Complaint and incorporates by reference the affirmative defenses pleaded by all other parties.

**WHEREFORE**, ExxonMobil demands judgment against USS as follows:

- a) dismissing USS's Counterclaim;
- b) awarding ExxonMobil its reasonable attorneys' fees;
- c) awarding ExxonMobil its cost of suit; and
- d) such other relief as the Court shall deem just and equitable.

Dated: January 2, 2014  
New York, New York

MCCUSKER, ANSELM, ROSEN &  
CARVELLI

By: \_\_\_\_\_/s/\_\_\_\_\_

Andrew E. Anselmi  
Maura W. Sommer  
805 Third Avenue, 12<sup>th</sup> Floor  
New York, New York 10022  
(212) 308-0070  
*Attorneys for Third-Party Plaintiff*  
*Exxon Mobil Corporation*